

(b) Subject to the availability of funds, each eligible dairy operation's payment is calculated by multiplying the applicable payment rate under paragraph (a) of this section by the operation's total eligible losses. Where there are multiple producers in the dairy operation, individual producers' payments are disbursed according to each producer's share of the dairy operation's production as specified in the Application.

(c) If the total value of losses claimed under paragraph (b) of this section exceeds the \$17 million available for DDAP-II, less any reserve that may be created under paragraph (e) of this section, total eligible losses of individual dairy operations that, as calculated as an overall percentage for the full disaster claim period that corresponds with the applicable hurricane-related disaster (not a monthly average for any one month), are greater than 20 percent of the total base production for those applicable claim period months will be paid at the maximum rate under paragraph (a) of this section to the extent available funding allows. A loss of over 20 percent in only one or two of the eligible months does not itself qualify for the maximum per-pound payment. Total eligible losses for a producer, as calculated under § 1430.606, of less than or equal to 20 percent during the eligible claim period will then be paid at a rate determined by dividing the eligible losses of less than 20 percent by the funds remaining after making payments for all eligible losses above the 20-percent threshold.

(d) In no event shall the payment exceed the value determined by multiplying the producer's total eligible loss times the average price received for commercial milk production in their area as defined in paragraph (a) of this section.

(e) A reserve may be created to handle pending or disputed claims, but claims shall not be payable once the available funding is expended.

§ 1430.608 Availability of funds.

The total available program funds shall be \$17 million as provided by section 3014 of Title III of Public Law 109-234.

§ 1430.609 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this subpart may request reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780. Appeals of determinations of ineligibility or payment amounts are subject to the limitations in §§ 1430.607 and 1430.608 and other limitations as may apply.

§ 1430.610 Misrepresentation and scheme or device.

(a) In addition to other penalties, sanctions or remedies as may apply, a dairy producer shall be ineligible to receive assistance under this program if the producer is determined by CCC to have:

- (1) Adopted any scheme or device that tends to defeat the purpose of this program;
- (2) Made any fraudulent representation; or
- (3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to any person or operation engaged in a misrepresentation, scheme, or device, must be refunded with interest together with such other sums as may become due. Any dairy operation or person engaged in acts prohibited by this section and any dairy operation or person receiving payment under this subpart shall be jointly and severally liable with other persons or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies that may apply.

§ 1430.611 Death, incompetence, or disappearance.

In the case of death, incompetency, disappearance, or dissolution of a person that is eligible to receive benefits in accordance with this subpart, such alternate person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by CCC.

§ 1430.612 Maintaining records.

Persons applying for benefits under this program must maintain records